

BOARD OF APPEALS CASE NO. 5270

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BEFORE THE

APPLICANT: W. Hayward Hulick

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ZONING HEARING EXAMINER

REQUEST: Variance to allow an existing 6 foot fence and accessory structure within the front yard setback; 495 Winterberry Drive, Edgewood

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 7/24/02 & 7/31/02

HEARING DATE: August 26, 2002

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Record: 7/26/02 & 8/2/02

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ZONING HEARING EXAMINER'S DECISION

The Applicant, W. Hayward Hulick, is requesting a variance pursuant to Section 267-26C(4) of the Harford County Code, to allow existing accessory structures within the front yard setback, and a variance, pursuant to Section 267-24B(1), to allow an existing fence more than 4 feet in height in the front yard (6 feet existing) in an R3/Urban Residential District.

The subject parcel is located at 495 Winterberry Drive, Edgewood, MD 21040 and is more particularly identified on Tax Map 66, Grid 2C, Parcel 0507, Lot 64. The parcel is located within the Willoughby Woods subdivision. The parcel consists of 0.18± acres, is zoned R3 and is entirely within the First election district.

Mr. Hayward Hulick appeared and testified that he owns the subject parcel that is a corner property subject to two front yard setbacks. He has constructed a deck to the rear of his home and surrounded it with a 6 foot privacy fence. The witness described the lot as irregularly shaped, being much narrower to the rear. By referring to photos provided with the staff report (Attachment 7) the witness pointed out the deck and shed area and other landscaping on the property. Shrubbery has been planted in front of the fence to further improve the appearance. The witness stated, and the photos point out, that, because of the configuration of the lot, the rear of his home is wide open to passersby and the fence provides the only privacy in the rear of his house. The witness did not think his deck or fence would have any adverse impact to his neighbors and pointed out that there are numerous decks and fences of similar size and construction located in his neighborhood.

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The Department of Planning and Zoning found that the property was unique, that the fence and deck encroachments resulted from the existence of two front yard setbacks occasioned by the corner configuration and further, that no adverse impacts would result from approval. The Department recommended approval.

There were no protestants that appeared in opposition to the request.

CONCLUSION:

The Applicant is requesting a variance, pursuant to Section 267-26C(4) of the Harford County Code, to allow existing accessory structures within the front yard setback, and a variance, pursuant to Section 267-24B(1), to allow an existing fence more than 4 feet in height in the front yard (6 feet existing) in an R3/Urban Residential District.

Harford County Code Section 267-26C(4) provides:

“Use limitations. In addition to the other requirements of this Part 1, an accessory use shall not be permitted unless it strictly complies with the following:

- (4) No accessory use or structure shall be established within the required front yard, except agriculture, signs, fences, walls or parking area and projections or garages as specified in § 267-23C, Exceptions and modifications to minimum yard requirements.”

Harford County Code Section 267-24B(1) provides:

“Exceptions and modifications to height requirements.

B. Fences and walls. Fences and walls may be located in required yards in accordance with the following:

- (1) Front yards. For single-family detached units, walls and fences shall not exceed four feet in height above ground elevation. Where fences and walls are an integral part of the unit design and are applied in a consistent and coordinated pattern throughout the project, fences and walls may be constructed to a maximum of six feet above ground elevation. For continuing care retirement communities, consistent and coordinated fencing or walls may be constructed to a maximum of eight feet above ground elevation provided strategically located gates are provided for emergency access.”

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The Harford County Code, pursuant to Section 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

The Hearing Examiner agrees with both the Applicant and the Department of Planning and Zoning that the subject parcel has unique features that severely constrain the ability of the Applicant to use and enjoy the rear of his property in even minimal privacy without need for a variance. The Applicant has constructed a modest deck and gazebo to the rear of his home. The deck measures 12 feet by 16 feet and has a gazebo attached. A solid board fence surrounds the two structures 6 feet in height. The fence, in turn, is surrounded by well-manicured shrubbery. The property is nicely landscaped and both the deck area and fence blend in an aesthetically acceptable and pleasing manner. The improvements constructed by the Applicant are compatible and consistent with other structures in the neighborhood and no adverse impacts will result from approval of the requested variances. These variances are necessitated by the shape and corner configuration of the lot.

The Hearing Examiner, for the foregoing reasons, recommends approval of the subject request conditioned on the Applicant obtaining any and all necessary permits and inspections.

Date: SEPTEMBER 24, 2002

William F. Casey
Zoning Hearing Examiner